

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1033 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

=====

1. Whether Reporters of Local Papers may be allowed : YES
to see the judgement?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

RAJUBHAI CHHOTABHAI PATEL

Versus

MANAGING DIRECTOR

Appearance:

MR RD RAVAL for Petitioner No. 1-5
NANAVATI ASSOCIATES for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 03/09/2001

ORAL JUDGEMENT

Rule. Mr.Keyur Gandhi waives service of rule on behalf of the respondent. With the consent of the parties, the matter is taken up for hearing today.

The petitioner-Union has challenged the decision given by the Labour Court, Vadodara, dated 28.7.1999, by which the interim prayer made by the workman is rejected

by the Labour Court in Complaint Nos.2 of 1998 to 6 of 1998 in Reference Demand No.6 of 1997. On behalf of the workmen, application was given, for giving them 75% subsistence allowance. The Labour Court came to the conclusion that the workmen had not led any evidence to show that they were declared as "protected workmen" by the Company and on that ground, the application was rejected. Mr.Raval, learned Advocate appearing for the workmen, however, relied upon the letter from the Company to the Assistant Labour Commissioner, Vadodara, dated 26.11.1996, wherein name of the concerned workman has been mentioned as a "protected workman" and his name is shown at Serial No.4 in the said letter. According to him, this letter is not considered by the Labour Court, even though it is part of the record before the learned Judge. However, on behalf of the respondent, it is stated that by subsequent letter dated 28.11.1996, names of other employees were submitted as "protected workmen", wherein name of the concerned workman is not there. However, it is stated that the aforesaid letter is not produced before the learned Judge at the time of hearing the application. In view of the fact that the letter dated 26.11.1996 is not properly taken into consideration by the Labour Court, the matter is remanded to the Labour Court for deciding the interim application again. The Labour Judge may, after considering the available documentary evidence on record, take fresh decision and while taking decision, the aforesaid letter dated 26.11.1996 also may be taken into account as it seems that there is no reference about the said letter in the order of the Labour Court. The Labour Court may, therefore, take fresh decision on the interim application given by the concerned workman and while taking the decision, letter dated 26.11.1996 also may be taken into consideration and appropriate order may be passed again after hearing both the sides and the Labour Court may also take appropriate decision in accordance with law and the said decision may be taken latest by 31st October, 2001.

The petition is accordingly allowed. The matter is remanded to the Labour Court for reconsideration of the application of the present workman.

Rule is made absolute to the aforesaid extent with no order as to costs.

Writ to be sent forthwith.

(P.B. Majmudar, J.)

(apj)